

# BRAC Cleanup Team (BCT) Workshop



## Topical Issues Raised During Facilitated Discussions

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# FOST/FOSL



- ◆ Delegated approval process
  - more authority at lower levels
  - minimize changes by chain of review
- ◆ Moving the process
  - licensing
  - leasing small areas
  - no release FOSTs
  - horizontal transfers

# FOST/FOSL



- ◆ Transferring utilities in UXO areas
- ◆ Length of time to complete the FOST process
  - minimum time is 3 months
- ◆ OPS determinations may hold up FOSTs
- ◆ FOST/FOSL language
  - need for flexibility in deed/lease

# Institutional Controls



- ◆ Need to use the deed as the vehicle to ensure future awareness and maintenance of ICs
- ◆ Cleanup is based several factors, including cost; the decision rests with DoD, not LRA
- ◆ DoD has CERCLA 120 and PL102-484 330 obligations, memorialized in the deed
- ◆ DoD can put restrictions on transferees, memorialized in the deed

# Institutional Controls



- ◆ Need watchdogs to ensure restrictions are obeyed in the future - perhaps transferees prepare annual report/notice. State and local authorities will have a role in this.
- ◆ If restrictions violated by transferee, DoD can use property rights to enforce ICs (deed) and/or CERCLA lead agent authority - the transferee would then also be a PRP and lose 120 and 330 protection

# Lead-Based Paint



- ◆ Issues are risk and protectiveness
- ◆ Confusion because of the
  - different laws
  - different regulations
  - lack of implementing regulations--Both HUD and EPA (regulations to be final two years after publications) drafted regulations, still in OMB, due to be final in two years

# Lead-based Paint



- ◆ “Agreement in Principle”
  - what has to be done
  - FOST/FOSL language
  - LBP indemnification
- ◆ Discussion of revised EPA policy
  - for usual residential scenarios--Title X and TSCA
- ◆ DoD is developing a field guide
  - provide guidance on current requirements and guidance
  - draft will be released for comment this summer